

ORDINANCE NO. 2490

AN ORDINANCE AMENDING CHAPTER 7, "HEALTH AND SANITATION", OF THE CODE OF ORDINANCES OF THE CITY OF COLLEGE STATION, TEXAS BY REPEALING SECTION 9, "TOBACCO PRODUCTS AND SMOKING OF TOBACCO PRODUCTS IN PUBLIC PLACES"; PROVIDING FOR A NEW SECTION 9, "TOBACCO PRODUCTS AND SMOKING"; PROVIDING A SEVERABILITY CLAUSE, DECLARING A PENALTY, AN EFFECTIVE DATE, AND DISPENSING WITH CULPABLE MENTAL STATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLLEGE STATION, TEXAS:

PART 1. That Chapter 7, Section 9, of the Code of Ordinances of the City of College Station, Texas, be repealed and is hereby amended to read as set out in Exhibit "A" attached hereto.


PART 2: That if any provision of any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way effect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not less than Twenty-five Dollars (\$25.00) nor more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue shall be deemed a separate offense. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its passage by the City Council, as provided by Section 35 of the Charter of the City of College Station.

PART 4: There shall be no requirement of a culpable mental state for a violation of Chapter 7, Section 9, except as provided in Subsection F.

PASSED, ADOPTED and APPROVED this 30th day of January, 2001.

ATTEST:

  
CONNIE HOOKS, City Secretary

APPROVED:

  
LYNN McILHANEY, Mayor

APPROVED:

  
City Attorney

**EXHIBIT "A"**

**SECTION 9: TOBACCO PRODUCTS AND SMOKING**

A. Definitions

- (1) **Public Meeting** means a meeting required to be open to the public under TEX. GOVT. CODE, Chapter 551.
- (2) **Public Place** means an enclosed, indoor area to which the public has access and includes, but is not limited to the following:
  - (a) the common areas of a retail store, office, grocery store, or other commercial establishments;
  - (b) a restaurant or cafeteria;
  - (c) a public or private or secondary school;
  - (d) a public or private institution of higher education;
  - (e) a hospital or nursing home;
  - (f) an elevator;
  - (g) City and school buses;
  - (h) City building, owned or leased by the City and used for City purposes;
  - (i) an enclosed theater, auditorium, movie house, or arena; or
  - (j) a courtroom or a jury waiting or deliberation room.
- (3) **Smoke or smoking** includes:
  - (a) carrying or holding a lighted pipe, cigar or cigarette of any kind or any other lighted smoking equipment or device;
  - (b) lighting a pipe, cigar, or cigarette of any kind or any other smoking equipment or device; or

- (f) movie theaters, hospitals, and rest home facilities;
  - (g) within a twenty foot (20') radius of the entry way of all public places;
  - (h) restaurants or cafeterias with a seating capacity of fifty (50) people or less;  
and
  - (i) all other public places, including restaurants and cafeterias with seating capacity of more than fifty (50) people.
- (2) The person in charge may designate a smoking area between the hours of 10:00 p.m. to 6:00 a.m. in restaurants and cafeterias with a seating capacity greater than fifty (50) persons; provided, however, the smoking areas cannot be greater than fifty percent (50%) of the seating capacity and there shall be a four foot (4') separation between the smoking and non-smoking areas.
- (3) Smoking areas shall not be designated to cover areas in provisions (1)(a) through (1)(h) of this subsection. It is not required that any smoking areas be designated.

D. Signs

- (1) The person in charge of a public place shall place signs visible at each entrance of the building to notify persons entering that smoking is prohibited or that smoking is prohibited except in areas designated as smoking areas.
- (2) The person in charge shall conspicuously post signs in areas designated as a smoking area that smoking is permitted in the area.

E. Facilities to Extinguish Smoking Material

All public places shall be equipped for extinguishments of smoking materials. Facilities for extinguishments of smoking materials that are located in areas of public places other than designated smoking areas shall be accompanied by clearly visible signs, stating "no smoking".

F. Owner/Operator Responsible

A person commits an offense if he is the owner, operator, manager or an employee of an establishment and he intentionally permits or fails to make a reasonable effort to prevent smoking in a "no smoking" area.

- (c) emitting or exhaling the smoke of a pipe, cigar, or cigarette of any kind or any other smoking equipment or device.
- (4) **Bar.** A bar is an establishment that is dedicated predominately to the serving of alcohol rather than food.

B. Offense; Penalty.

- (1) A person commits an offense if the person smokes at a public meeting or in a public place or in any other enclosed, indoor area in which "no smoking" signs are conspicuously posted by the person in charge, and the person is not in an area designated as a smoking area under Subsection C below.
- (2) It is an exception to the application of provision (1) of this subsection that the person is smoking:
  - (a) in a situation in which the person is present at an event in which an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function;
  - (b) as a participant in an authorized theatrical performance;
  - (c) in a tobacco specialty shop; or
  - (d) in a bar.

Smoking shall be allowed and smoking signs are not required to be posted by the person in charge under Subsection C or Subsection D when smoking is permitted by Subsection B(2)a through B(2)d.

C. Designation of No Smoking and Smoking Areas

- (1) The person in charge shall designate the following areas as "non-smoking":
  - (a) food order areas, cashier areas, check-out lines for stores;
  - (b) City library;
  - (c) elevators;
  - (d) City and school buses, including associated terminals;
  - (e) restrooms;